



U.S. Department of Justice
Consumer Protection Branch

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May 17, 2024

VIA ECF

Honorable Robert M. Levy
United States Magistrate Judge
Eastern District of New York
225 Cadman Plaza East
Brooklyn, NY 11201

Re: *United States v. B4B Earth Tea LLC, et al. No. 22-CV-1159*

Dear Judge Levy:

The United States submits this letter to provide the Court with a further update regarding Defendant Sinclair's ("Defendant's") persistent refusal to appear for his deposition in the above-captioned case.

As noted in the United States' May 3, 2024 letter to Your Honor, after initially indicating his agreement to appear at the Brooklyn United States Attorney's Office pursuant to his deposition notice, on May 3, 2024, the Friday before his Tuesday deposition, Defendant emailed that he refused to appear at the United States Attorney's Office for his deposition. Defendant did not identify any legally valid reason to refuse to attend his deposition, but rather indicated that he would refuse to attend the deposition unless it occurred at the courthouse, stating: "I don't trust you'll [sic]. You've been sneaky. So I will not show up."

In accord with the United States' May 6, 2024 letter to the Court, the United States re-noticed the deposition to occur at the U.S. Attorney's Office on May 21, 2024, anticipating that the Court could resolve any disputes as to Defendant's appearance at the deposition during the next status conference, which was then scheduled to occur on May 16, 2024, five days before Defendant's re-noticed deposition. On May 13, 2024, the Court entered a Scheduling Order resetting the status conference for May 28, 2024.

On May 14, 2024, after Defendant had emailed counsel for the United States and stated that he would refuse to appear at the May 21, 2024, deposition at the U.S. Attorney's Office, the United States wrote to Defendant:

We have told you on several occasions that, if you believe it is justified to conduct the deposition at the courthouse, you would need to file a motion with the court. To date, you have not done so. Given that you have not yet taken any steps towards securing the permission of the court to move the deposition, we expect

that you will appear at the U.S. Attorney's Office next Tuesday pursuant to the deposition notice we served on you. If you fail to file a motion with the court and then fail to appear next Tuesday, we will seek appropriate sanctions against you.

Defendant's response later that day indicated: "I do not think it's necessary to file a motion to move the location. Now that the date was moved up, I will file the Motion. As I've said before I will not go into [the United States Attorney's Office]."

To date, Defendant has failed to file any motion seeking the Court's permission to move the location of the deposition to the courthouse, and has failed to identify any legitimate reason for failing to appear. Once again, Defendant's repeated refusal to appear for his deposition has required that the United States cancel Defendant's rescheduled deposition, and has further delayed and prolonged this case.

Having twice refused to appear pursuant to valid deposition notices, Defendant has unnecessarily caused the United States to expend significant time and resources making arrangements and incurring costs preparing for Defendant's deposition to occur. During our next scheduled status conference on May 28, 2024, the United States plans to request that the Court compel Defendant to appear at the United States Attorney's Office for his deposition, and to ask that the Court consider imposing sanctions in light of Defendant's unjustified obstructive and dilatory conduct.

Respectfully submitted,

AMANDA LISKAMM
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By: /s/ James T. Nelson

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